

PRESENT:

Dr. Edgar V. Wallin, Chairman

Mr. J. Dale Patton, Vice-Chairman

Dr. William P. Brown

Mr. Russell J. Gulley

Mr. Reuben J. Waller, Jr.

Mr. Kirkland A. Turner, Secretary to the Commission, Planning Director

ALSO PRESENT:

Mr. Michael E. Tompkins, Assistant Director,

Development Review Section, Planning Department

Mr. Glenn Larson, Assistant Director,

Plans and Information Section, Planning Department

Ms. Bonnie L. Perdue, Clerk to the Commission,

Plans and Information Section, Planning Department

Ms. Stacy Taffer, Administrative Manager,

Plans and Information Section, Planning Department

Mr. Rob Robinson, Senior Assistant County Attorney,

County Attorney's Office

Ms. Tara McGee, Senior Assistant County Attorney,

County Attorney's Office

Mr. Greg Allen, Planning Manager,

Review Section, Planning Department

Ms. Jane Peterson, Planning and Special Projects Manager, Development Review Section, Planning Department

Mr. Robert Clay, Planning and Special Projects Manager,

Development Review Section, Planning Department

Ms. Darla Orr, Planning and Special Projects Manager,

Development Review Section, Planning Department

Mr. Ryan Ramsey, Senior Planner,

Development Review Section, Planning Department

Ms. Teresa C. Davis, Planning and Special Projects Coordinator,

Development Review Section, Planning Department

Mr. Jesse Smith, Director,

Transportation Department

Mr. Scott Smedley, Director

Environmental Engineering Department

Mr. Dave Wolverton, Microcomputer Analyst

Information Systems Technology Department

Firefighter Greg Smith, Fire and Life Safety,
Fire and EMS Department

Dr. Cynthia Richardson, Planning Administrator,
Chesterfield County Public Schools

Mr. Ray Cash, Senior Planner,
Development Review Section, Planning Department

ASSEMBLY AND WORK SESSION.

Messrs. Wallin, Patton, Brown, Gulley and Waller and staff assembled at 2:00 p.m. in the Public Meeting Room, Chesterfield County Administration Building, 10001 Iron Bridge Road Chesterfield, VA, for a work session.

I. <u>CALL TO ORDER</u>.

Mr. Turner introduced Indonesian guests visiting Chesterfield County.

II. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS, CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions, or changes in the order of presentation.

III. REVIEW UPCOMING AGENDAS.

Ms. Jane Peterson apprised the Commission of the caseload agendas for November, December 2014 and January and February 2015.

IV. REVIEW DAY'S AGENDA.

Ms. Jane Peterson advised the Commission of the eleven (11) cases for today's agenda.

V. WORK PROGRAM - REVIEW AND UPDATE. 🖹

There were no questions relative to the work program.

VI. PLANNING COMMISSION FOLLOW-UP ITEMS LIST.

Mr. Kirk Turner advised a letter had been sent to County school administration inviting them to come to Planning Commission to talk about their CIP and how that relates to Revitalization. Planning has received no response to date.

The Commission has been given the weekly status report which is posted online to provide customers with the status of projects.

Mr. Gulley commented on the current process that the letter to school administration went through verses the process that was in place when he was chair of the Commission.

Mr. Waller stated he supports Mr. Gulley's comments.

Dr. Brown stated he would be concerned if the administration tried to interfere with the Commission regarding communications.

Dr. Wallin stated his concern is with situations that one cannot anticipate. When communications do not occur in a timely manner, it creates doubt. He hopes to hear back from school administration and that dialogue can come about regarding Revitalization.

VII. (14PJ0154) TOWER SITING POLICY – SETBACKS & SMALL CELL TECHNOLOGY DISCUSSION.

Industry experts in attendance are Marc Cornell and Bryan DeVary with Ntelos, Janet Webster with Clark Nexsen, Frank Mayer and Colleen Hall with Verizon and Jeff Geiger, an attorney with Hirschler Fleischer, representing Verizon.

Mr. Robert Clay presented an overview to the Commission regarding setbacks to the Tower Siting Policy. The Tower Siting Policy was adopted on January 22, 2014 and at the June 17, 2014 work session, the Commission requested setback provisions be revisited and a policy be drafted to address the setbacks from adjacent properties zoned or designated for residential uses. A proposed amendment to the policy was presented at the August 19, 2014 Work Session. That draft amendment established a clear relationship between the height of a tower and the setback. It provided for exceptions based upon a fall zone and it clarified setback measurements. The Commission recommended a setback from existing off-site dwellings be two (2) feet for every one (1) foot of tower height, setbacks at 300 feet for towers up to 200 feet in height and an additional one (1) foot of setback for every foot over 200 feet.

Mr. Gulley stated he pushed this setback revision because of a case in his district. If the setbacks had been left as they were originally, the tower would have been located thirty-five (35) feet from a property line. If the existing Policy setbacks are maintained, his requested language be included in the Policy to allow for consideration of enhanced setbacks when adjacent agricultural property is to be developed for residential use within a reasonable amount of time. He is anxious to hear what the industry has to say about the current setbacks verses the proposed setbacks.

Mr. Marc Cornell with Ntelos stated with more demands for usage and data consumption doubling each year, towers are essential to providing ample coverage. The industry is looking at new technology and small cell technology to help provide the anticipated increase in use. The industry continues to need new places within the network for towers and he is concerned that the Commission is putting more constraints on the placement of the new cell towers.

Ms. Janet Webster, a structural engineer, spoke about the types of tower structures, how they are designed to fall when there is a failure and the failure rate. Ms. Webster stated each monopole is designed for each specific site with many variables taken into consideration. A monopole built in Chesterfield County is going to be constructed differently than one that will be installed near the ocean. Should a monopole fail from the secure base, it would most likely be as a result of a catastrophic event and that event would cause more damage itself than just the monopole failure.

In response to a question from Mr. Waller relative to pole failure, Ms. Webster responded that the pole is designed in tapered sections, usually falls at half the height of the pole and can fall in any direction.

In response to a question from Mr. Patton relative to safety factors being built into the monopole, Ms. Webster responded that it is rare to have a failure and the last one she is aware of happened during Katrina.

Mr. Gulley stated based upon the community meetings he had attended, cell tower support is split down the middle. Some citizens want the towers close by for a better signal and others find the towers unappealing in neighborhoods and feel they decrease property value.

In response to a question from Mr. Patton relative to the fairness of the setbacks in Chesterfield County, Mr. Cornell responded that the setback revision is more restrictive than what he sees in other local jurisdictions.

Regarding the new setbacks from lease boundaries, Ms. McGee stated the Commission cannot answer the question concerning the industry being required to lease the land; the Commission can only make recommendations on where towers are constructed.

Mr. Jeff Geiger stated the draft Policy requires setbacks be taken from the more restrictive of the property line or the lease line. In every instance, the more restrictive will be the lease line. In his letter to the Commission, Mr. Geiger outlines what this means to the industry and the inability to locate property in the built out areas to satisfy the leasing requirements. The adopted Policy that the industry and the Commission worked on for a year has the safety setback. The property line is the measurement line and if there is a piece of property that they want to use and it does not fit the criteria, the industry can come back to the Commission or Board and ask for an exception to the Policy. The current Policy works and allows for expansion of service requested by the public. Homebuilders want the towers so they can get good cell service and use multiple devices to successfully market new homes. Wireless is the infrastructure for the future.

In response to a question from Mr. Waller relative to how many carriers can be on one tower, Mr. Frank Meer stated the industry has four (4) different carriers and if they want to put four (4) different antennas on one sector of the face, it is hard to do with a flush mount.

In response to a question from Mr. Gulley relative to the industry's internal process regarding structural sign-off on towers, Mr. Cornell stated the onus is on the tower owner. A structural report is required stating the tower was built to accommodate more load than what will actually be placed on the tower. The tower owner has to give approval for any additional carriers to be placed on the tower.

Dr. Wallin stated the Commission does not want to add more bureaucracy to the process and more cell coverage is needed in the County.

Mr. Robert Clay stated at the June 17, 2014 work session, the Commission heard a staff presentation on Small Cell Technology noting telecommunication companies were erecting fewer new towers and Small Cell units are being deployed to improve coverage in high capacity areas. Units are being placed in urban areas, shopping malls, sporting venues, mass transit stations and other similar areas. Small Cell units work in tandem with the existing wireless infrastructure and can be located on the ground, on buildings or on poles. Currently the Zoning Ordinance does not include a specific reference to Small Cell units to distinguish them from a telecommunications tower; therefore, these units would be subject to the same zoning regulations as applied to towers. As an alternative, the Commission may wish to consider amending the zoning Ordinance to permit Small Cell units as a restrictive use, similar to cell towers co-located on high-tension power-line

structures. Small Cells can help satisfy high demand for network capacity; they typically cover small areas with high use such as an airport. The Commission indicated a need for more information on this technology and requested staff invites representatives from the industry to a future work session and they are present today for questions.

In response to a question from Mr. Gulley relative to shutting down towers before they are inspected, Mr. Meer responded the same is true for Small Cells so if work is to be done around a Small Cell unit, it would be shut down. The Federal Communications Commission (FCC) regulates any tower or transmitter anywhere. If they are mounted at street level, they would have to evaluate how high to locate them and what power level. They would perform an Electromagnetic Emission (EME) study which measures Radio Frequency (RF) emissions, which are regulated by the FCC. The study is used to determine if emissions pose a health risk to those in close proximity.

In response to a question from Mr. Gulley relative to the minimum standards, Ms. Kathy Faulkner with Verizon Wireless stated the letter in their packet from Millennium Engineering speaks to that subject. Mr. Meer stated while the Small Cell units are a lower power, they are still under the same obligation for public safety as a tower 120 feet in the air.

Mr. Rob Robinson stated the Small Cell units are regulated by the FCC and the ability of the Commission is limited regarding safety concerns.

Ms. Kathy Falkner stated Verizon takes every precaution regarding the safety of the Small Cell units or tower installation. The letter in your packet from Millennium Engineering states inspections show compliance with EME safety standards by a substantial margin at below 1% of the allowable of FCC standards.

Ms. Lori Schweller, an attorney with LeClairRyan representing Verizon Wireless, stated Verizon and all carriers are required to comply with federal law and regulations regarding RM emissions. Federal regulations address Small Cell units on water towers or anywhere they are located.

Dr. Wallin stated the Commission is looking for guidance on Small Cell technology and understands Chesterfield citizens rely on strong cell service to enhance their quality of life.

Mr. Gulley recommended another work session to digest the information and material they received today.

In response to a question from Mr. Turner relative to when the Ordinance would be ready for the Commission, Mr. Clay stated sixty (60) days or at the December 16, 2014 work session. A public hearing would be set subsequent to the December meeting. There will be a policy amendment dealing with setbacks. As a separate issue, there will be a draft Ordinance for the Commission to consider that will permit Small Cells as restrictive uses.

The Commission recessed at 3:52 p.m. until 4:00 p.m.

Mr. Gulley left the meeting at 3:53 p.m.

The Commission resumed the work session at 4:00 p.m.

VIII. (14PJ0130) INFILL DEVELOPMENT STUDY.

Mr. Kirk Turner recommended to defer the Infill presentation to the December 16, 2014 Work Session.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to approve moving the Infill Development Study to the December 16, 2014 Planning Commission meeting.

AYES: Messrs. Wallin, Patton, Brown, and Waller.

ABSENT: Mr. Gulley.

IX. (14PJ0159) CODE AMENDMENT RELATIVE TO PRELIMINARY SUBDIVISION PLATS.

Mr. Ray Cash presented an overview to the Commission regarding the State Code change for Preliminary Subdivision Plats. As staff worked through the related ordinance changes, other concerns in regards to the Subdivision Ordinance were identified that will need to be evaluated. Staff has begun a process to permit the community to provide additional comments on the Subdivision Ordinance, and staff will incorporate appropriate changes resulting from the comments to be considered at the same time as the referenced preliminary plat ordinance changes. This will offer advertising cost savings by combining ordinance revisions. Timelines will be established to keep the evaluation project on track and progressing. Staff will work with the community in regards comments and report back to the Commission.

Mr. Turner stated the hope is there will be only minor changes that come out of this.

Depending upon the extent of comments and resulting changes, staff anticipates this being brought back to the January 20, 2015 work session.

X. (13PJ0130) PLANNING STAFF PRESENTATION RESIDENTIAL QUALITY STANDARDS.

Mr. Greg Allen presented an overview to the Commission about the study of residential developments and the four (4) study types. The first study is Residential Community Quality Design Guidelines and it originally was called the pattern book. The purpose of the guidelines is to facilitate discussions about what achieves enduring value in single-family neighborhoods and how to identify elements of single-family residential neighborhoods that promote active lifestyles and a sense of place. The second study is the Single Family Residential Quality Assessment Program. This study looks at visual, economic, social, physical and geographic data of existing single-family neighborhoods. By looking at data from these backgrounds staff was able to get a good cross section of neighborhoods. Forty neighborhoods were chosen for the study with eight from each of the five magisterial districts and four from each of the ten high school districts. The goal of this program is to begin evaluating how well neighborhoods are maintaining value over time and to develop empirical data that gives reliable direction to maintaining single-family neighborhood home values. The third is the Residential Townhouse Study and its purpose is to determine the connection between development quality and townhouse assessed values per square foot and to support discussions about quality development with future townhouse zoning cases. The fourth study is Pursuing Successful Multi-Family Development. The purpose of this study is to determine what is needed to make multi-family development more successful and retain higher assessed values over a long period of time.

In response to a question from Dr. Wallin relative to the pattern book, Mr. Allen stated the pattern book was too heavily focused on the materials used and the architectural style of the homes within a neighborhood. The pattern book was too far in one direction so staff has gone back and taken

out the verbiage of "this needs to happen" or "this shall happen" to allow for more creative approaches.

Mr. Turner stated while the pattern book was primarily focused on building design and materials, this effort is focused on the design of the community, how you orient the streets, what amenities are associated with a project, what things are added to bring interest and appeal to the community in the way it is designed.

In response to a question from Mr. Waller relative to Revitalization, Mr. Allen responded the guidelines manual does not have a correlation with Revitalization. However, the data that will be and has been collected on successful neighborhoods could be used to demonstrate what was done right and this formula could be infused into the process of when we look at how to revitalize an area in need.

Mr. Patton stated he liked the pattern book as it was a good product for Revitalization and had multiple applications but could see how the development community would see it as dictatorial.

Dr. Wallin stated the pattern book has a lot of good ideas and now that we are beginning to define areas of Revitalization, the pattern book could be used in these identified areas.

COMMISSION DISCUSSION ON UNRELATED TOPICS.

Dr. Wallin reminded the Commission to look at the proposed 2015 Planning Commission meeting schedule which will be voted on at the November 18, 2014 Planning Commission public meeting.

In response to a question from Dr. Brown relative to a motorcycle track being constructed on private property Mr. Turner responded at a personal residence where the owner wants to construct a motorcycle track, the Ordinance was amended to prohibit improvements being made for that purpose. You can ride on your property but not build a track on your property. If you have vacant agricultural property and you want to ride ATV or motorcycles on that property, as long as you are not making improvements it is allowed. If you make improvements like building a track, and invite friends to ride, that is considered recreational use and it will be regulated accordingly.

XI. DINNER BREAK.

There being no further business to discuss, the Commission recessed the Afternoon Session at approximately 4:33 p.m., agreeing to meet in the Executive Meeting Room for dinner, and to reconvene in the Public Meeting Room at 6:00 p.m. for the public hearing.

5:00 P.M. DINNER - EXECUTIVE MEETING ROOM.

During dinner, there was general discussion on topics related to the Planning Commission.

6:00 P.M. PUBLIC HEARING.

I. CALL TO ORDER.

II. <u>INVOCATION</u>.

Mr. Patton presented the invocation.

III. PLEDGE OF ALLEGIANCE TO THE FLAG OF UNITED STATES OF AMERICA.

Sincere Andrews, Sara Creech, and Mikayla Strane, students from Falling Creek Elementary School led the Pledge of Allegiance to the Flag.

IV. REVIEW UPCOMING AGENDAS.

Mr. Kirk Turner apprised the Commission of the caseload agendas for November, December, January and February.

V. APPROVAL OF THE PLANNING COMMISSION MINUTES.

• September 16, 2014 Minutes.

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On motion of Mr. Gulley, seconded by Mr. Waller, the Commission resolved to approve the September 16, 2014 Planning Commission minutes.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

VI. <u>REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE</u> ORDER OF PRESENTATION.

On motion of Mr. Gulley, seconded by Mr. Waller, the Commission resolved to amend the agenda to be reordered as stated below:

- Case 15SN0534 Kim M. Johnson and Mark A. Johnson will be moved to be the last item heard on the discussion agenda.
- Case 15SN0551 Destiny Christian Center will be moved to be the next to the last item heard on the discussion agenda.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

VII. REVIEW MEETING PROCEDURES.

Mr. Kirk Turner reviewed the meeting procedures.

VIII. CITIZEN COMMENT ON UNSCHEDULED MATTERS.

There were no citizens' comments on unscheduled matters.

IX. PUBLIC HEARING.

WITHDRAWAL BY APPLICANT – CONDITIONAL USE PLANNED DEVELOPMENT.

C. <u>14SN0577</u>*: In Dale Magisterial District, **Terraforge Ventures LLC** withdrew requests for amendment of conditional use planned development (Case 05SN0219) relative to open space,

recreation areas and focal point, cash proffers and quality standards and amendment of zoning district map in a Residential (R-12) District on 175.2 acres fronting 2400 feet on the east line of Conifer Road, 480 feet south of Bellbrook Drive. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Suburban Residential II use (2.0 to 4.0 dwellings per acre). Tax IDs 784-675-1052; 784-676-4783, 5382 and 6098; 784-677-4902; 785-675-2669, 2976, 3080, 3771 and 3975; 785-676-2781; 2890 and 8097; and 785-677-2754, 3100, 3236, 3310, 3418, 3527, 3658 and 4240.

Mr. Turner apprised the Commission of the applicant's request for withdrawal of Case 14SN0577.

The Commission acknowledged the withdrawal.

DEFERRAL REQUEST BY APPLICANT – CONDITIONAL USE.

B. <u>13SN0132</u>*: (AMENDED) In Dale Magisterial District, Chesterfield Business Partners LLC and Kingsland Towncenter LLC request amendment of conditional use (Cases 06SN0237 and 07SN0226) relative to reduction of cash proffers and amendment of zoning district map in a Community Business (C-3) District on 101 acres fronting the west line of Iron Bridge Road and the north and south lines of Kingsland Glen Drive. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Business and Industrial uses. Tax IDs 770-677-6585; 771-676-6355; 771-678-2064; 772-676-1473; and 772-677-3568.

Mr. Jack Wilson, the applicant's representative, requested deferral of Case 13SN0132 to the January 20, 2015 Planning Commission public hearing.

Dr. Wallin opened the floor for public comments.

Mr. Paul Grasewicz does not agree with the deferral request due to the previous number of deferrals for this case.

There being no one else to speak, Dr. Wallin closed the public hearing.

Dr. Brown stated the case will be heard at the January 20, 2015 Planning Commission meeting.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to defer Case 13SN0132 to the January 20, 2015 Planning Commission public hearing.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

• <u>DEFERRAL REQUEST BY INDIVIDUAL PLANNING COMMISSIONER – CONDITIONAL USES.</u>

E. <u>15SN0518</u>: In Clover Hill Magisterial District, **Rita Randolph Jones** requests conditional use to permit a family day-care home and amendment of zoning district map in a Residential (R-7) District on .8 acre known as 3900 Round Hill Court. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Suburban Residential II use (2.0 to 4.0 dwellings per acre). Tax ID 764-690-6673.

Ms. Rita Jones, the applicant, does not consent to the deferral.

Dr. Wallin opened the floor for public comments.

Ms. Susan Reynolds, who lives in the Creekwood neighborhood, spoke in opposition to the case. She explained there are numerous cars going in and out of the neighborhood as a result of the day care.

Mr. Gulley advised he plans to defer the case to permit time for the applicant and the Home Owners' Association to meet, then have a community meeting with the neighbors.

No one else came forward to speak in favor of, or in opposition to, the deferral.

There being no one else to speak, Dr. Wallin closed the public hearing.

On motion of Mr. Gulley, seconded by Dr. Wallin, the Commission, on their own motion and without the applicant's consent, resolved to defer Case 15SN0518 to the December 16, 2014 Planning Commission public hearing.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

G. <u>15SN0535</u>*: In Bermuda Magisterial District, **Dwight Allen Crews** requests conditional use permit a business (contractor's storage yard) incidental to a dwelling and amendment of zoning district map in a Residential (R-7) District on 1 acre known as 12234 Parker Lane. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Residential use (2.5 dwellings per acre or less). Tax ID 795-654-5864.

Mr. Dwight Allen Crews, the applicant, does not consent to the deferral.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the deferral.

There being no one to speak, Dr. Wallin closed the public hearing.

Mr. Patton advised that the deferral will provide time for the applicant to have a community meeting.

On motion of Mr. Patton, seconded by Dr. Brown, the Commission, on their own motion and without the applicant's consent, resolved to defer Case 15SN0535 to the December 16, 2014 Planning Commission public hearing.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

CONSENT ITEMS - REZONINGS.

H. <u>15SN0545</u>: In Dale Magisterial District, Shelia H. Walters requests amendment of zoning (Case 87SN0131) to permit a retail shop and amendment of zoning district map in a General Business (C-5) District on .7 acre known as 10611 Greenyard Way. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Neighborhood Business use. Tax ID 773-659-1476.

Ms. Shelia H. Walters, the applicant, accepted staff's recommendation.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to recommend approval of Case 15SN0545, subject to the proffered condition:

PROFFERED CONDITION

In addition to those uses approved with Case 87SN0131, a gift/home décor shop shall be permitted provided that such use shall be limited to a maximum of 760 gross square feet in area and shall be located within the existing office building located on the request property. (P)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

- 1. 15SN0548***: In Dale Magisterial District, MK Property Holdings, LLC and Pre Con Inc. request amendment of zoning (Case 84SN0193) relative to signage and amendment of zoning district map in a Neighborhood Business (C-2) District on 4.5 acres located on the north line of Court Yard Road, east of Iron Bridge Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Neighborhood Business use. Tax IDs 772-658-8744 and 773-658-2545, 4348 and 5548.
 - Mr. Chris Eisenberg, the applicant, accepted staff's recommendation.
 - Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to recommend approval of Case 15SN0548, subject to the proffered condition:

PROFFERED CONDITION

The Applicants hereby amend Condition 4 of Case 84SN0193 to read as follows:

1. Signage shall be regulated by the Zoning Ordinance. (P)

(Staff Note: Except as amended herein, all previous conditions of zoning approved in Case 84SN0193 shall remain in full force and effect.)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

K. <u>15SN0599</u>: In Dale Magisterial District, Chesterfield County Planning Commission requests amendment of zoning (Case 91SN0156) to permit secondhand and consignment stores, excluding motor vehicle consignment lots and amendment of zoning district map in a General Business (C-5) District on 1.4 acres known as 10400 Iron Bridge Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Business use and the historic courthouse design area. Tax ID 772-660-7039.

Mr. Kirk Turner, the applicant, accepted staff's recommendation.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to recommend approval of Case 15SN0599.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

REZONING, CONDITIONAL USES, CONDITIONAL PLANNED DEVELOPMENT-OTHER

Mr. Jim Theobald, the applicant's representative, consents to the denial.

Dr. Wallin opened the floor for public comment.

No one came forward to speak in favor of, or in opposition to, the denial.

Dr. Brown stated the case has been around for a very long time. Due to the FAA not reaching a decision on plans for airport expansion and until a decision is made, the owners cannot move forward with the case.

There being no one else to speak, Dr. Wallin closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to deny Case 09SN0141.

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

D. <u>14SN0579</u>*: In Bermuda Magisterial District, Trine Properties LLC requests conditional use Planned development to permit exceptions to ordinance requirements relative to signage and screening of mechanical equipment and amendment of zoning district map in a Community Business (C-3) District on 6.1 acres fronting 225 feet on the south line of Iron Bridge Road, 240 feet west of Branders Creek Drive. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Business use. Tax IDs 777-653-2931, 2949 and 4107.

Mr. Ryan Ramsey presented an overview of the case to the Commission and staff's recommendation for denial. The applicant had originally requested exceptions to the Ordinance to permit a second freestanding project identification sign. Freestanding signs were proposed at the intersection of Branders Creek Drive, Remington Drive, Ironbridge Road and Oliver's Way. The applicant has submitted a revised proffer and textual statement this afternoon addressing concerns from the adjoining property owner where the request for a second freestanding sign on Branders Creek Drive was withdrawn. The applicant is requesting to have a property identification sign that is 75 square feet with changeable copy and 15 feet in height. The Ordinance allows for 62.5 square feet and 15 feet in height. Staff recommends denial as the sign exceeds sign standards and the applicant has not agreed to have the existing rooftop access screened. The ordinance sign standards are adequate and lack of screening of rooftop access does not maintain architectural quality and creates negative visual impacts. A letter withdrawing the adjacent property owner's opposition was received today.

Ms. Carrie Coyner, the applicant's representative, advised the neighboring property owner no longer opposes the sign request.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

On motion of Mr. Patton, seconded by Dr. Brown, the Commission resolved to recommend approval of Case 14SN0579 subject to the addendum and proffered condition:

PROFFERED CONDITION

The Applicant in this case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property known as Chesterfield County Tax Identification Number 777-653-2931, 2949 and 4107 ("the Property") under consideration will be developed according to the following proffer(s) if, and only if, the request submitted herewith is granted with only those conditions agreed to by the Applicant. In the event this request is denied or approved with conditions not agreed to by the owner and Applicant, the proffer shall immediately be null and void and of no further force or effect.

Master Plan. The Textual Statement dated October 21, 2014 shall be considered the Master Plan. (P)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

J. <u>15SN0551:</u> In Bermuda Magisterial District, **Destiny Christian Center** requests conditional use to permit a church and amendment of zoning district map in a Heavy Industrial (I-3) District on 6.5 acres located in the northwest corner of Osborne and Old Stage Roads. Density will be controlled

by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Industrial use. Tax IDs 802-659-2721, 3919, 4660 and 5824.

Mr. Ryan Ramsey presented an overview to the Commission and staff's recommendation for denial. The applicant requests use of an existing warehouse building for a church facility with a five (5) year limitation while they accrue funding for a new location. Staff recommends denial as it does not comply with the Plan and is not compatible with existing and anticipated area industrial development.

Mr. William Shewmake, the applicant's representative, does not agree with staff's recommendation.

In response to a question from Mr. Gulley relative to the industrial park expanding, Mr. Shewmake stated the property owner has no plans to expand and the rest of the park will remain industrial.

Dr. Wallin opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Wallin closed the public hearing.

Mr. Waller stated placing a house of worship in an industrial zone is not his first choice but he will follow Mr. Patton's lead and with some reluctance, support the case.

On motion of Mr. Patton, seconded by Dr. Wallin, the Commission resolved to recommend approval of Case 15SN0551 subject to the proffered conditions:

PROFFERED CONDITIONS

- 1. The Conditional Use shall be granted for a period of time not to exceed five (5) years from date of approval. (P)
- 2. Church use shall be limited to the building located on Tax ID 802-659-5824 and identified on the plan approved as part of Case 05SN0145. Associated parking may be located on this or other properties which are included as part of this request. (P)

AYES: Messrs. Wallin, Patton, Brown, Gulley and Waller.

- F. 15SN0534: In Clover Hill Magisterial District, **Kim M. Johnson and Mark A. Johnson** request Conditional use to permit a residential stock farm (keeping a pig) and amendment of zoning district map in a Residential (R-7) District on .5 acre known as 3911 Timber Ridge Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Suburban Residential I use (maximum of 2.0 dwellings per acre). Tax ID 729-682-7226.
 - Mr. Ryan Ramsey presented an overview of the case and staff's recommendation for approval with conditions. The subject property is located in the Brandermill Community and is zoned R-7. The applicant has been keeping a pig as a pet on the property for the past nineteen (19) months. The applicants indicated that they were unaware of any restrictions related to a stock farm use on their

Residential (R-7) zoned property. A pig is classified as a farm animal by the Zoning Ordinance and must be kept on three (3) or more acres. Keeping a pig requires approval of conditional use to permit a residential stock farm in a Residential District. In June 2014, the Planning Department received a complaint that a pig was being kept on the property. Upon investigation, it was determined that the applicants are keeping a Kunekune pig that is primarily kept inside their home. According to the applicant, the life span of their pig is fifteen (15) to twenty (20) years and the mature weight is 150-200 pounds. Online resources generally confirm this and the applicant's pig is approximately twenty-one (21) months old and weighs 150 pounds. County Animal Control confirms no license, shots or vaccinations are required for the keeping of a pig as livestock within the County. The applicants have indicated their pig sees a veterinarian one (1) to two (2) times a year and is kept updated on vaccinations. The applicants have proffered conditions to minimize keeping the pig in the residential neighborhood. The conditional use would be limited to the applicants only, would be for no more than five (5) years, for only this pig and it cannot be replaced, must be kept indoors and if outside must be on a leash, if approved, documentation on size, color, sex, weight and age must be supplied to the Planning Department and exterior waste shall be cleaned and be disposed of appropriately and all odor must be eliminated. Staff has received 223 signed names on a petition in favor of keeping the pig, two (2) letters of opposition and eight (8) letters of support.

Mr. Mark Johnson, the applicant, accepted staff's recommendation. Mr. Johnson stated he has a petition with about 2100 names in support of keeping Tucker, explained reasons why they chose a pig and why Tucker is not livestock.

Dr. Wallin opened the floor for public comments.

The following speakers spoke in support of the applicant: Mses. Jackie Holmes, Kim Wright, Susan Kennedy, Tammy Yancy, Fran Martin, Kim Casey, Samantha Lester and Mary Tyndall and Messrs. Chris Tiller and David Robinson. Supporters noted conditions would minimize impacts; lack of evidence relative to communicable diseases from pigs to humans; similarity to the keeping of a large dog; and the public process allows for consideration of each case on its own merits.

The following speakers spoke in opposition to the applicant: Mses. Colleen Kida and Kit Kavenaugh and Messrs. Joe Herbst and James Schrecengost. Those opposed noted Ordinance considers pet pigs as farm animals; uses not appropriate in a residential district; possibility of communicable diseases; impact on property values; and setting of precedent in residential areas.

Mr. Mark Johnson expressed appreciation to those speaking in support of Tucker.

There being no one else to speak, Dr. Wallin closed the public hearing.

In response to a question from Mr. Gulley relative to the definition for domestic animal in Chesterfield County, Mr. David Stone with Police and Mr. Donald Rose with Animal Control defined companion animal as any domestic or feral dog, any domestic or feral cat, any guinea pig, hamster or rabbit not raised for human food or fiber, reptile or exotic or native bird, any feral animal, any animal under the care and custody or ownership of a person or any animal bought, sold, traded or bartered by any person.

In response to a question from Mr. Gulley relative to the difference in definition of dogs and cats and livestock, Mr. Stone and Mr. Rose responded the State law stipulates all livestock and poultry

and pigs are considered agricultural livestock and Chesterfield County does not require pigs to have rabies shots.

In response to a question from Mr. Gulley relative to animal control regulating pigs, Mr. Rose responded that animal control does not regulate pigs as it is a zoning law, but if pigs wander off the property it is a violation of the County fence law. Mr. Stone stated there are no statutes applicable to pigs in the County.

Mr. Gulley stated it appears the County does not have any infrastructure in place to regulate pigs.

In response to a question from Dr. Brown relative to the regulation of ferrets, Mr. Rose stated the County does not regulate ferrets but there is a rabies shot for ferrets. If a ferret gets off of the property and creates a nuisance there is no Ordinance that requires animal control to pick them up. The County regulates dogs but not cats. Agricultural animals, games species, or any animal regulated under the Federal laws as research animals shall not be considered companion animals.

In response to a question from Dr. Wallin relative to the purpose of County Ordinances, Mr. Turner stated the County adopts a Zoning Ordinance, which regulates how property is used. The Ordinance groups uses that are similar in character together and establishes districts where it's appropriate for those uses to occur. Some uses complement one another and other uses have the potential to have a detrimental impact. Property rights and the health and safety of a neighborhood can be impacted when uses are not regulated.

Mr. Robinson stated the issue for this Commission, in making a recommendation to the Board, is a zoning question relative to having a pig as a pet in a residential area.

Mr. Gulley stated the animal weighs 150 pounds now and once mature will weigh over 200 pounds. Hanover County does not allow pigs or even a conditional use process that Chesterfield County allows and is the strictest in the surrounding localities. Even if the vote is not in favor of the Johnson's, Chesterfield County will not show up and take their pig away. If the Board denies the case, there is a period of time given to the applicant to come into compliance with the ruling. Daycares and pets are the two types of cases that bring forth the most emotion, whether it is for or against the case. He tries to stick to the facts of the case, considers the legal approach to the case and takes into consideration the people who feel like their property is being negatively impacted by a particular case. The Board did pass the keeping of chickens and because the eggs provide food for families, that was of importance. In this case the pig does not provide food to the family so these two cases can't be compared. He asked the Brandermill Community about their covenants concerning pet pigs and they said their covenants were silent. Because the Chesterfield County Ordinance speaks to livestock not being permitted in residential areas, the Brandermill Community may have felt having covenants saying the same thing was redundant. People that move to Brandermill expect the bylaws and covenants to protect their residential planned community from the keeping of livestock, people working on their cars in the driveways, etc. There are over 13,000 people living in Brandermill and while there are many signatures on petitions, it is a small percent of the overall residents in Brandermill. The Police Department and Animal Control are powerless in regulating livestock with no legal infrastructure in place. He does not support livestock in a residential area.

Dr. Brown stated he has researched this type of pig and it is considered docile compared to potbellied pigs. Pigs are not prone to contract rabies, while they can, they typically do not.

Mr. Waller stated he agrees with Mr. Gulley regarding the emotional aspect of this case and supports the case.

Mr. Patton stated he compares this to a conditional use case similar to a daycare case. He is concerned with what the neighbors think. The pig party with eight pigs weighed on him and he feels he has a responsibility to consider the individuals that opposed a stock farm animal in a residential area.

Dr. Wallin stated he supports a country way of life and owning animals. He moved to an agricultural area so he could have animals that were not allowed in his previous residential neighborhood. In a case like this you have to stick to the rules and guidelines so it will be hard for him to support this case.

On motion of Mr. Gulley, seconded by Mr. Patton, the Commission resolved to recommend denial of Case 15SN0534.

AYES: Messrs. Wallin, Patton, Gulley. NAYES: Messrs. Brown and Waller.

X. CITIZEN COMMENT ON UNSCHEDULED MATTERS.

There were no citizen comments on unscheduled matters.

XI. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Gulley, seconded by Mr. Waller that the meeting adjourned at 8:42 p.m. to Tuesday, November 18, 2014 at 2:00 p.m., in the Public Meeting Room, 10001 Iron Bridge Road, Chesterfield, Virginia.

AYES:	Messrs. Wallin, Patton, Brown, Gulley and Waller.		
Chairman/Date		Secretary/Date	